

### **REMARKS**

In the Office Action dated June 7, 2004, claims 1-17 are pending and all claims are rejected. Applicant requests reconsideration for at least the reasons discussed herein.

The present invention is directed to and claims a handheld amusement and stress relief device formed of a flexible, resilient polymeric material having a center portion with a concave/convex shape, wherein the device has **two stable equilibrium positions** wherein a first equilibrium position comprises a first surface having a concave shape and a second surface having a convex shape and a second equilibrium position is the reverse or inverse of the first equilibrium position and comprises the second surface having a concave shape and the first surface having a convex shape, whereby manual manipulation of the device inverts the first and second surfaces between the two stable equilibrium positions, as set forth in claim 1. In other words, the second stable equilibrium position is the reverse or inverse of the first stable equilibrium position. The device of the present invention **requires** manual manipulation to be moved from one stable equilibrium position to the other, no matter which stable equilibrium position it is in. Further, **the two equilibrium positions have substantially the same shape or appearance.**

The nature of the present invention can be readily seen by examining the samples of the device that were previously submitted with the response mailed January 25, 2001.

Claims 1-17 are rejected under 35 U.S.C. § 103(a) over Jorgenson et al. (US 3,414,186). Jorgensen et al describe a **transducer** or air pump 10 that comprises a housing or body 12 with a fitting 14 at one end **for attachment to a standard water faucet** that communicates with a water inlet chamber 16. The base of the chamber is provided with a central bore 20 in which valve stem 22 is slidably mounted. The chamber also is provided with an additional bore 24 connecting the water inlet chamber 16 to the water chamber 26. [Col. 2, lines 51-64]

In operation, the fitting 14 is connected to a water faucet. With the water turned on, water enters the water inlet chamber 16 and runs through bore 24 to the waster chamber 26. As the water chamber 26 fills, **the pressure of the water bearing on diaphragm 38 gradually forces the diaphragm toward the air chamber.** As this happens the **toggle actuators** 34 and 36 move in such a way that the arms 35 bear against the **snap action toggle mechanism** 32 and move the toggle mechanism enough to cause the toggle mechanism 32 to snap from the stable position shown in FIG. 1 to the stable position shown in FIG. 2. When this happens the toggle mechanism pulls the valve stem 22 toward the air chamber so that valve 28 abruptly closes bore or passage 24 while valve 30 abruptly opens passage 29. [Col. 3, lines 27-42]

As the valve 30 opens passage 29, the force exerted by coil spring 40 on the diaphragm moves the diaphragm toward the water chamber 26 so that the water in water chamber 26 is forced out through exit passage 29. This movement of the

diaphragm carries the toggle actuators 34 and 36 with it causing arms 37, which bear against the toggle mechanism to cause it to snap back to the stable position shown in FIG. 1. [Col. 3, lines 54-61]

Jorgensen et al. fail to teach or suggest the presently claimed handheld amusement and stress relief device. The diaphragm of the transducer in Jorgensen et al. is moved by toggle actuators 34 and 36 based on water pressure and spring pressure. There is not even a hint of a suggestion that manual manipulation is involved or desired.

Thus, it is not seen how the present invention would have been obvious to one of ordinary skill in the art in view of Jorgensen et al., whether each taken alone or in combination any prior art of record.

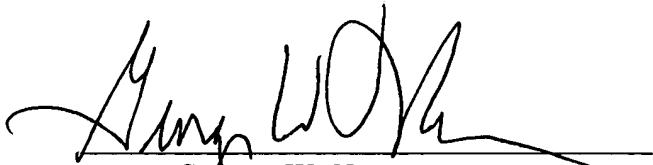
It is further submitted that none of the dependent claims would have been obvious from Jorgensen et al. because Jorgensen has nothing to do with a handheld amusement and stress relief device.

An early reconsideration and notice of allowance are earnestly solicited.

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In view of the length of prosecution of this application, and the many changes of the basis for rejections that have been withdrawn, Applicant requests that this examination be expedited and, if issues still remain, the examiner call Applicant's attorney to attempt to resolve the issues expeditiously.

Respectfully submitted,

  
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